

1998

Field Report: The Challenge Presented by the Arab Palestinian Minority in Israel

Jamil Dakwar

American University Washington College of Law

Follow this and additional works at: <http://digitalcommons.wcl.american.edu/hrbrief>



Part of the [Human Rights Law Commons](#), and the [International Law Commons](#)

Recommended Citation

Dakwar, Jamil. "Field Report: The Challenge Presented by the Arab Palestinian Minority in Israel." Human Rights Brief 5, no. 2 (1998): 6, 8-9.

This Article is brought to you for free and open access by the Washington College of Law Journals & Law Reviews at Digital Commons @ American University Washington College of Law. It has been accepted for inclusion in Human Rights Brief by an authorized administrator of Digital Commons @ American University Washington College of Law. For more information, please contact fbrown@wcl.american.edu.

FIELD REPORT

The Challenge Presented by the Arab Palestinian Minority in Israel

by Jamil Dakwar*

Background

In 1948, the Jewish minority formally declared the existence of Israel in the Palestine Mandate. During the war of 1948, the vast majority of Palestinians living in Palestine were either expelled or forced to leave temporarily in order to avoid the war. After the war, most Palestinians were not allowed, under Israeli law, to return to their homeland, thus becoming refugees in neighboring Arab countries.

The Palestinians now living in Israel represent the remaining members of the Arab community of Palestine which was devastated by the mass exodus of the population during and after the war of 1948. In that year, about 170,000 Palestinians became citizens of Israel, most of them living in rural areas. Today, the Arab Palestinian citizens of Israel comprise about 20% of the total population, approximately 1 million citizens.

The Arab Palestinian citizens of Israel are a national minority (Palestinian), as well as an ethnic (Arab) and linguistic (Arabic) minority. On an individual basis, Arabs in Israel enjoy formal equality: they vote in all elections on an equal basis with other citizens, and they regularly elect their own representatives in the *Knesset*. Arabs have almost complete freedom of worship; their respective religious communities have jurisdiction over religious courts and places of worship with salaries of religious judges paid by the state. Arabs also have freedom of expression; they publish a number of Arabic-language newspapers and magazines criticizing the Israeli Government, which are to a great degree uncensored.

The Problem

Nonetheless, this "equality" has been restricted. Although the Arab Palestinians were formally granted equal rights as Israeli citizens, between 1948 and 1966, they were subject to strict military control, and most of their lands were confiscated and "nationalized" by the state. Fur-

thermore, under military rule, they were subject to harsh restrictions of basic rights, such as the freedom of movement between villages and cities. This movement was allowed only with a special permit from the military governor.

The Arab minority in Israel has never been recognized by the state of Israel as a *national minority*. The national, ethnic, and linguistic character of the Arab community has been consistently ignored and has often resulted in discrimination by the Israeli Government. In general, Israel has recognized and

The Arab minority in Israel has never been recognized by the state of Israel as a *national minority*. The national, ethnic, and linguistic character of the Arab community has been consistently ignored and has often resulted in discrimination by the Israeli Government.



Road sign in a heavily Arab populated area, giving directions in only Hebrew and English.

treated its Arab citizens as members of religious minorities and this is how they are often described in internal official documents: *Minorities*. In addition, in

Although the Arab Palestinians were formally granted equal rights as Israeli citizens, between 1948 and 1966, they were subject to strict military control, and most of their lands were confiscated and "nationalized" by the state.

the context of the ongoing Arab-Israeli conflict, the Arab minority has been treated as a hostile element; the Arab Palestinians have been suspected of

being "a fifth column" and often described as a "Trojan Horse" in the Jewish State. As a result, a deep division and inequality in almost all fields remains between the Arab minority and the Jewish majority in Israel.

Roots of the Problem

Since the establishment of the state of Israel, the Arab minority has been marginalized in almost all aspects of Israeli society. Politically, the Arabs in Israel have been excluded from every government coalition, thus rendered politically powerless. Budget allocations illustrate the consequences of such exclusion.

In contrast to the successful role of small Jewish religious parties, the Arabs as a collective minority have not enjoyed the same budget allocations and governmental investments. Moreover, the Arab minority has never been considered part of national development plans. Other matters such as the absorption of Jewish immigrants have taken priority over the needs of the Arabs. The industrial infrastructure, which was supposed to replace the agricultural sector in the Arab community after the mass confiscation of their lands, remains undeveloped to this day.

Moreover, the cultural life of the Arab minority remains marginalized. One example is the absence of the official use of the Arabic language. Although it is considered an official language in Israel, in the same capacity as

continued on page 8

Arab Minority, continued from page 6

the Hebrew language, there is no serious attempt to teach Arabic in Jewish schools, nor is the Arabic language represented on the prime time hours of official broadcasting television.

Politically, the Arabs in Israel have been excluded from every government coalition, thus rendered politically powerless.

In parallel to the continual policies ignoring the political and cultural needs of the Arab community in Israel, another process, no less effective, has developed. A uniform terminology and rhetoric among the Jewish majority, represented by Israeli governments throughout the last fifty years, has gradually developed regarding the national Arab minority.

Labeling Palestinians in Israel was part of the marginalization; ignoring and disregarding their own historical narrative remains an integral part of the discrimination against the Arab minority. Labeling is a central issue in the politics of representation, particu-

Dominant groups often rename subordinate ones, thus redefining allegiances and boundaries in an attempt to control identities and to structure dependence.

larly important in cases of national minorities. Dominant groups often rename subordinate ones, thus redefining allegiances and boundaries in an attempt to control identities and to structure dependence.

This policy took the form of using the labels "Israel's Arabs" and "Israeli Arabs" or dividing the Arab Palestinian minority in Israel into religious minorities: Moslems, Christians, and Druse, as well as into "Bedouins" versus the general community and using the term "minorities" or "Non-Jews."

The purpose of this policy was to shift the attention away from the locus (historical Palestine) to culture and religion (Arab and the religious subdivisions: Islam, Christianity, and Druse).

This process sometimes includes not only defining identities, but can also be seen in the translation of Israeli national days into Arabic: Independence Day in official government announcements in Arabic translate the expression literally calling it "*Independence Holiday*" (*eid el-estiklal*) whereas in Hebrew it is called "*yom ha-tzmaot*" meaning "*Independence Day*." Independence Day for Arabs, however, specifically recalls the destruction of their national homeland and the creation of hundreds of thousands of Palestinian refugees denied self-determination. Governmental labeling of this as a "holiday" rewrites history, and contradicts the collective memory of the Arab Palestinian population.

Professor Baruch Kimmerling, an Associate Professor of Sociology of politics at the Hebrew University of Jerusalem, has noted: "From the beginning, the sociology of Israel was 'self-centered,' in several respects: (1) The questions posed and the terminology that developed were integral parts of the 'Zionist consensus' and contributed to the construction of the Zionist social reality; and (2) sociology was harnessed to the state-building efforts of the nation."

Obviously, the Arab minority in Israel was not considered part of this Zionist social reality, or as part of the new Israeli nation. This has created serious tension among Palestinians, between their national affiliation to the Arab Palestinian people and their civil status as citizens of the state of Israel, which by definition does not consider them citizens. After all, Israel is the self-proclaimed State of Jews across the globe, but it is not the State of the Israelis.

The Challenge of the Future

The challenge before the Arab minority is how to reconcile Israel as a Jewish State, offering explicit advantages and privileges to an ethnic religious majority, and Israel as a democracy. For example, the governmental criteria for youth group funding is that eligible groups should adhere to the view that Israel is a *Jewish, Zionist, and Democratic State*. Arab youth groups or even Arab-Jewish youth groups who advocate for democracy will be excluded.

Another challenge is the lack of a formal written constitution or a bill of rights, with protection for minorities. Instead there are Basic Laws which together purport to form the Constitu-

tion of the State of Israel. The Israeli Supreme Court has successfully provided basic protection of individual rights, but has yet to address the protection of the Arab minority as a collective national group.

The last two Basic laws which were enacted by the Knesset in 1992 were the *Basic Law: Human Dignity and Liberty* and the *Basic Law: Freedom of Occupation*, considered a constitutional revolution by the Chief Justice of the Israeli Supreme Court, Aharon Barak. These have created a new reality and a great legal challenge to the status quo. *The Basic Law: Human Dignity and Liberty* protects human dignity and liberty and states in section 2: "*There shall be no violation of the life, body or dignity of any person as such*" and in section 4: "*All persons are entitled to protection of their life, body and dignity.*"

Another challenge is the lack of a formal written constitution or a bill of rights, with protection for minorities.

Yet this evolution is far from complete, since the principle of equality has not been explicitly and sufficiently defined by the Israeli legislature in the Basic Laws. The Israeli Declaration of Independence was the first and only historical document where the right to equality is explicitly mentioned: The Declaration of Independence proclaimed that it aspires to "*ensure complete equality of social and political rights to all its inhabitants irrespective of religion, race or sex.*"

Unfortunately, this Declaration did not have a normative and constitutional basis until the Amendment of section 1 of the Basic Law: Human Dignity and Liberty, passed by the Knesset in 1994, which stated "*Basic rights in Israel are based on the recognition of the value of the human being and the sanctity of his life and his freedom, and these will be respected in the spirit of the principles of the Declaration of Independence of the state of Israel.*" This law is not retroactive however, and cannot override other laws passed by the Knesset. In addition, violations of rights under this Basic Law will be allowed "*by a law fitting the values of the State of Israel, designed for a proper purpose, and to an extent no greater than required or by such a law enacted with explicit authorization therein.*"

continued on next page

Arab Minority, continued from previous page

Thus, one of the major challenges facing the Arab Palestinian citizens of Israel, as part of a collective national group and as equal citizens, is that the right to equality is not constitutionally-protected and sufficiently enforced in

Thus, one of the major challenges facing the Arab Palestinian citizens of Israel, as part of a collective national group and as equal citizens, is that the right to equality is not constitutionally-protected and sufficiently enforced in Israel.

Israel. Even if the right to equality were constitutionally-protected, the Israeli Supreme Court has ruled, in recent precedential cases regarding the right of women and gays to equality, that the Declaration of Independence has a normative constitutional status. It remains to be seen whether the Supreme Court has the willingness and capability to extend these legal protections to include the collective national rights of the Arab Palestinian citizens of Israel.

Consequences of Non-Recognition

The consequences of Israeli government policy continues to be felt. As a result of being an unprotected and unrecognized national minority in an ethnic Jewish State with limited constitutional protections, the Arab community has suffered and continues to suffer from institutional as well as private discrimination. This discrimination is both covert and overt in nature. The following examples highlight the consequences of this ongoing discrimination. While it is true that limited progress has been made, especially by the previ-

As a result of being an unprotected and unrecognized national minority in an ethnic Jewish State with limited constitutional protections, the Arab community has suffered and continues to suffer from institutional as well as private discrimination.

ous Labor-Meretz government, which gained the support of the Arab parties without being part of the government coalition in the *Knesset*, these examples indicate development is still required.

The hiring practices of the Electricity Company, the largest governmental company in Israel, demonstrate discrimination in employment. Out of more than 13,000 employees, only six are Arabs. Housing discrimination is also pervasive as illustrated by the existence of more than 40 unrecognized villages. Denial of official recognition leads to failure to provide basic services such as water, electricity, education, and health care. The current right-wing government of Israel has decided to overturn the previous government's policy, recognizing four of these villages.

In the field of education, discrimination faced by the Arab community can be seen on several levels. An examination of fund allocations reveals that the Arab community faces a shortage of facilities

Arab children are taught more about Jewish history than their own.

and materials. Furthermore, the education students receive discriminates in that it does not give Arab children a sufficient opportunity to learn their own history. Arab children are taught more about Jewish history than their own. In institutions of higher education, Arab students comprise only 6% of the total number of students in Israel, despite the fact that Palestinians in Israel constitute 20% of the population.

Language rights are yet another indicator of the institutional discrimination faced by Arabs. Although Arabic is an official language of Israel, it is virtually ignored in many official governmental documents and in much of Israeli society in general. More than 80% of road signs in Israel are only in Hebrew and English (which is not an official language), whereas signs in Arabic can be seen only in areas populated heavily by Arabs.

Discrimination is also evident in the budget allocation by the Ministry of Religious Affairs. In 1997, the Arab population was accorded only 2% of the Ministry's budget. In 1998, the Arab population will be accorded only 1.86%.

Arab non-governmental organizations (NGOs) have also played a significant role in promoting equality and civil rights in Israel.

Overcoming Discrimination

In recent years, there has been a clear and obvious growth of public interest groups among both the Jewish and the Arab communities in Israel. This process has positively influenced the status of many groups in Israel, such as women, people with disabilities, and homosexuals, who are seeking equality and social justice.

Arab non-governmental organizations (NGOs) have also played a significant role in promoting equality and civil rights in Israel. Professional grass roots organizations such as *Adalah*—The Legal Center for Arab Minority Rights, the Galilee Association, and other groups have created a new approach in challenging and promoting individual and collective equal rights of the Arab minority in Israel. Prior to the foundation of these NGOs, the Arab community lacked representation.

As a result of these efforts, there is now a greater demand to establish affir-

There is now a greater demand to establish affirmative action plans to eliminate past and present discrimination and to ensure equal opportunities.

mative action plans to eliminate past and present discrimination and to ensure equal opportunities. These efforts have been followed by the legitimate demand to recognize the Arab population in Israel as a national minority with recognized collective rights. This will highlight the most crucial question and frame the debate of the future, whether Israel is going to continue to be an ethnically defined democracy or develop into a liberal democracy and citizen state. ☼

**Jamil Dakwar is an Arab Palestinian citizen of Israel. Born and schooled in Haifa, he received his LL.B. from Tel Aviv University and worked as a staff lawyer at Adalah, the Legal Center for the Arab Minority Rights in Israel. Currently he is a New Israel Fund Law Fellow completing his LL.M. at WCL while interning at the Washington Lawyers' Committee for Civil Rights.*